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**RECEIVED  
ENFORCEMENT PROGRAM**

OCT 24 1983

**Environmental Protection Agency**

October 21, 1983

CLEBURN L. GREGORY JR.  
(1910-1982)

WASHINGTON OFFICE  
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SUITE 501  
WASHINGTON, D.C. 20007  
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Mr. Robert Sharpe  
Illinois Environmental  
Protection Agency  
Division of Air Pollution Control  
2200 Churchill Road  
Springfield, Illinois 62706

Mr. Gary Krueger  
Suite 904 - Myers Building  
P. O. Box 1834  
Springfield, Illinois 62705

Mr. Greg Seidor  
Assistant Attorney General  
State of Illinois  
Springfield, Illinois 62706

RE: Taracorp

Dear Bob, Greg and Gary:

Enclosed are the Objections to Proofs of Claim with respect to the claims of Illinois, NL, St. Louis Lead Recyclers and First Granite City National Bank Trust #454 which we have discussed with you from time-to-time. As you will note, counterclaims are asserted against both NL and St. Louis Lead. Also enclosed are the Claims of NL, St. Louis Lead and the Bank.

In the Objection to Illinois' Claim we have also requested Illinois to be enjoined from certifying the property to the U.S. EPA for listing on the Superfund unless Illinois concedes it has no claim and the claim will be that of the U.S. EPA. We will be requesting an early hearing on the application for injunction.

EPA Region 5 Records Ctr.



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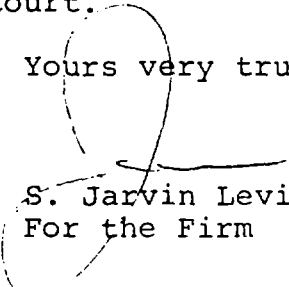
Messrs. Sharpe, Krueger, Seidor  
October 21, 1983  
Page 2

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We will also be filing a motion to consolidate the claims of Illinois, NL, St. Louis Lead and the Trust.

As we also have said from time-to-time, we are going forward and prepare a consent document of what we believe Taracorp is capable of doing and which is likely to be approved by the Bankruptcy Court.

Yours very truly,

  
S. Jarvin Levison  
For the Firm

SJL:nbm  
Enclosures

cc: William McDaniel, Esquire  
Neal Batson and James Stokes, Esquire  
Nolan B. Harmon, Esquire  
Morris Macey and Tom Todd, Esquire  
Mr. Bill Bronner

21 October 93

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	
	)	
TARACORP, INC., a/k/a	)	CHAPTER 11
EVANS METAL COMPANY,	)	
SEITZINGERS, IMACO, and	)	JUDGE HUGH ROBINSON
TARACORP INDUSTRIES,	)	
	)	
Debtor.	)	CASE NO. 82-04654A
<hr/>		
TARACORP, INC. a/k/a	)	
EVANS METAL COMPANY,	)	
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	
	)	
Movant,	)	
	)	
v.	)	
	)	
STATE OF MINNESOTA, MINNESOTA	)	
POLLUTION CONTROL AGENCY,	)	
	)	
Respondent.	)	

OBJECTION TO PROOF OF CLAIM,  
COUNTERCLAIM AND AFFIRMATIVE ALLEGATIONS

COMES NOW the Debtor, Taracorp, Inc. ("Taracorp"), and files this Objection to Proof of Claim, and moves this Honorable Court to disallow the Proof of Claim filed herein by the State of Minnesota, Minnesota Pollution Control Agency ("Minnesota"), and shows the Court as follows:

1. ~~Minnesota has filed~~ Proof of Claim No. M-28 herein, alleging that Taracorp is liable to it for the sum of Three Million Nine Hundred Forty-Three Thousand Nine Hundred Two Dollars (\$3,943,902). Any liability which

Taracorp may have to Minnesota is contingent and unliquidated.

2. The said Proof of Claim arises from conditions which Minnesota alleges constitute violations of Minnesota's environmental protection laws by Taracorp at a facility which it owns in St. Louis Park, Minnesota.

3. The said facility consists of an abandoned lead smelter.

4. The said facility was owned and operated by NL Industries, Inc., f/k/a/ National Lead Industries, Inc. ("NL"), continuously for many years.

5. Taracorp acquired the said facility from NL on August 22, 1979.

6. Since acquiring the said facility from NL, Taracorp operated it intermittently until early 1982 when it permanently discontinued all operations at the said facility.

7. Any conditions that exist at said facility, including any conditions that allegedly may constitute violations of Minnesota's environmental protection laws, existed before Taracorp acquired the said facility, and such conditions occurred during the ownership and operation of said facility by NL.

8. Taracorp is not liable to Minnesota for the conditions alleged to exist at said facility.

9. If anyone is liable to Minnesota for any conditions existing at the said facility, then NL is liable and not Taracorp.

10. Taracorp is not liable to Minnesota for the amount stated by Minnesota in the said Proof of Claim.

11. If the Court concludes that NL and Debtor are both liable to Minnesota for violation of its environmental laws arising from the ownership and operation of the St. Louis Park facility, the Court should determine and assess the liability between NL and Debtor.

COUNTERCLAIM

12. From the inception of Taracorp's ownership of the St. Louis Park facility on August 22, 1979, the State of Minnesota through its duly authorized agencies and political subdivisions, acting singly or in concert (collectively hereinafter referred to as "Minnesota"):

- (a) denied Taracorp permits to which it was entitled;
- (b) advised Taracorp, the general community in which the facility was located, the media who disseminated such information, and the United States Environmental Protection Agency ("US EPA") that Taracorp owned and was operating a facility that was seriously in violation of the Federal and Minnesota environmental laws and regulations in a variety of ways causing harm to the health of the citizens of St. Louis Park, when in fact no such serious violations were occurring or had occurred nor had there been any harm to the health of the citizens of St. Louis Park; and

- (c) certified to the US EPA that the facility should be included on the National Priorities List ("the Superfund List") created by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") notwithstanding the fact that Taracorp had ceased operating the facility approximately eight months previously and two of the three criteria for measurement of certification did not exist, i.e., air emissions from operation of the facility and ground water pollution.

13. During the time Taracorp was endeavoring to operate the St. Louis Park facility the actions by Minnesota as described in paragraph 12 above caused Taracorp:

- (a) To operate its facilities in St. Louis Park, Minnesota, McCook, Illinois, and Granite City, Illinois, differently and less efficiently than it would have if such actions had not occurred;
- (b) To incur substantial and unnecessary legal and engineering expenses;
- (c) To permanently abandon the operation and close said facility because the cost of meeting the arbitrary and unnecessary demands of Minnesota do not permit any possibility that such facility can ever be operated profitably by Taracorp or any other party;

- (d) To cause the facility to have no value as a secondary lead smelting facility;
- (e) To cause the real property not only to have no value for any purpose whatsoever, but to have a negative value of at least \$4,000,000; and
- (f) To suffer unfavorable publicity locally, nationally, and particularly to its customers as the owner and operator of a facility on the Superfund List.

14. The actions of Minnesota have caused Taracorp to suffer losses of not less than \$10,000,000 and by filing its Proof of Claim in this proceeding, Minnesota has waived any rights to sovereign immunity.

#### AFFIRMATIVE ALLEGATIONS

15. The action of Minnesota in certifying to the US EPA that the St. Louis Park facility should be placed on the Superfund List was an arbitrary, capricious and unwarranted action without any basis in fact resulting in a claim by Minnesota in this proceeding of \$3,943,902 and Taracorp has no adequate remedy to remove such facility from the Superfund List.

16. The certification by Minnesota to the US EPA as described above should be reversed or Minnesota should otherwise notify the US EPA to remove said facility from the Superfund List.

WHEREFORE, Taracorp prays that this Honorable Court inquire into its Objection to Proof of Claim, Counterclaim and Affirmative Allegations, and grant relief as follows:

1. That Taracorp be awarded \$10,000,000 in damages against Minnesota.
2. That the Proof of Claim filed by Minnesota, the same being Proof of Claim No. M-28, be disallowed in its entirety.
3. In the alternative, that the Court determine the amount of Taracorp's liability to Minnesota and allow the said Proof of Claim in such amount only.
4. In the alternative, that the Court estimate, for the purpose of allowance, Taracorp's liability to Minnesota and allow the said Proof of Claim in such amount only.
5. In the alternative, that the Court assess against NL any amounts that it determines Minnesota is entitled to collect in connection with the St. Louis Park facility and direct NL to make such contribution.
6. That the Court grant such other and further relief as it deems equitable and just.

MACEY & SIKES

Morris W. Macey

Thomas R. Todd, Jr.

ARNALL, GOLDEN & GREGORY

S. Jarvin Levison



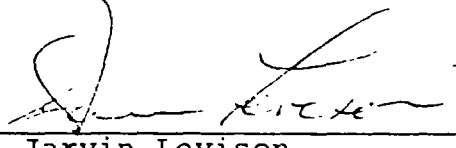
CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of Debtor's Objection to Proof of Claim, Counterclaim and Affirmative Allegations by depositing said copy in the United States Mail in a properly addressed envelope with adequate postage thereon, addressed to:

Webb, Daniel & Betts  
1901 Cain Tower  
229 Peachtree Street, N.E.  
Atlanta, Georgia 30303

Barbara Lindsey Sims  
Special Assistant Attorney General  
Office of the Attorney General  
MPCA  
1935 West County Road B-2  
Roseville, Minnesota 55113

This 27<sup>th</sup> day of October, 1983.

  
\_\_\_\_\_  
S. Jarvin Levison